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Filing date: **08/16/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	85009475
Applicant	Cynthia Badinger Kemp
Applied for Mark	LALaurie MANSION
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Submission	This Filing is a Request for Remand/Amendment and also a Request for Extension of Time to file an Appeal Brief
Attachments	PetRemand-ExtTime-AppealBrief.pdf(49387 bytes) LaLaurieMansion-Photograhs-1.pdf(1622972 bytes) LaLaurieMansion-Photographs-2.pdf(1657522 bytes)
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Date	08/16/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

TRADEMARK LAW OFFICE: 104
SERIAL NO.: 85009475
MARK: LALAUURIE MANSION
TRADEMARK EXAMINING ATTORNEY: Angela Duong

APPLICANT: Cynthia Badinger Kemp

APPLICATION FILED: 04/08/2010

NOTICE OF APPEAL FILED: 05/06/2013

ATTORNEY DOCKET NO.: I09178US (03563.30)

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APPLICANT'S REQUEST FOR REMAND TO TRADEMARK EXAMINER AND
PETITION FOR EXTENSION OF TIME TO FILE APPEAL BRIEF

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir:

Applicant filed a Notice of Appeal on May 6, 2013, along with a request for reconsideration of the Refusal to Register and a request for suspension of appeal, pending consideration by the Examiner. The Examiner issued a second Final Office Action on May 31, 2013 and the Trademark Office Trial and Appeal Board issued a notice on June 18, 2013 that the appeal has been resumed. An Appeal Brief is due on August 17, 2013. Applicant hereby requests that the appeal be suspended and that the case be remanded to the Trademark Examiner to consider new evidence submitted in an Amendment to Allege Use and Response, pursuant to Trademark Trial and Appeal Board Manual of Procedure (TBMP) rule 1207.02, for good cause shown, as follows. Should the appeal not be suspended and the case not remanded, Applicant hereby petitions the Commissioner for Trademarks for a 30-day extension of time to file the Appeal Brief, under TBMP rule 1203.02(d), for good cause

shown, as follows.

Applicant has contacted the Examiner, and also filed an Amendment to Allege Use together with proper specimen on August 8, 2013. The date of first use is July 31, 2013, and the specimens are attached hereto. Applicant submitted a reply and request for reconsideration to the outstanding Final Office Action, on August 12, 2013, requesting registration of the mark on the Supplemental Register, which Applicant submits makes the issue of Descriptiveness of the mark now moot. Applicant submitted these filings per the language in the second Final Action indicating a Response could be filed within six months.

Applicant had previously submitted an Amendment to Allege Use and specimen during prosecution of the application, but these were not accepted by the Examiner. Applicant is requesting remand to the Trademark Examiner to allow the Trademark Examiner to review and act on the filings and new specimen of use of the Applicant, to avoid proceeding with the Appeal. Applicant respectfully submits that the above-reasons satisfy the good cause requirement of TBMP rule 1207.02 (“If an applicant or examining attorney wishes to introduce additional evidence after an appeal has been filed, the applicant or examining attorney may file a written request with the Board to suspend the appeal and remand the application for further examination. A request under 37 CFR § 2.142(d) to suspend and remand for additional evidence must be filed prior to the rendering of the Board's final decision on the appeal. In addition, the request must include a showing of good cause therefor (which may take the form of a satisfactory explanation as to why the evidence was not filed prior to appeal), and be accompanied by the additional evidence sought to be introduced. The length of the delay in making the request after the reason for the remand becomes known, or the point in the appeal process at which the request for remand is made, will be considered in the determination of whether good cause exists. Generally, the later in the appeal proceeding that the request for remand is filed, the stronger the reason that must be given for good cause to be found”).

Should the request for remand not be granted, Applicant is requesting a 30-day extension of time to file the Appeal Brief. Applicant respectfully submits that the reasons discussed above satisfy the requirements for good cause shown for an extension of time under TBMP rule 1203.02(d). This

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Petition for Extension of Time to File Appeal Brief dated August 16, 2013

is Applicant's first request for an extension of time to file a brief. See TBMP rule 1203.02(d) ("An extension of time for filing an appeal brief in an ex parte appeal to the Board may be granted by the Board upon written request showing good cause for the requested extension. The determination of good cause will be based upon all relevant circumstances, including the length of time of any previously granted extensions. . . . Depending on the totality of the circumstances, good cause has been found when there has been an appointment of a new attorney, illness, the need to get instructions from a foreign applicant, and attempting to negotiate a consent agreement.").

Should the Board feel that a telephone conference would advance the prosecution of this application, please contact the undersigned at the telephone number listed below.

Applicant respectfully petitions the Commissioner for any extension of time necessary to render this paper timely.

Please charge any fees due or credit any overpayment to Deposit Account No. 50-0694.

Respectfully submitted,

/Gregory C. Smith, # 29,441/

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